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10/21/2003

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,291	07/17/2003	Lilan Bao	16437	2480
23389	7590	03/28/2005	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				GRAHAM, MARK S
ART UNIT		PAPER NUMBER		
		3711		

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/621,291	BAO ET AL. <i>CD</i>	
<b>Examiner</b>	<b>Art Unit</b>	Mark S. Graham	3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____.                                    |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6-8, 11-18, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Hillerich. Hillerich's innermost alternating laminations at the core may be considered the core section blocks with the surrounding laminations considered the "outer section at least partially surrounding the core."

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Chen et al. '660 (Chen).

Brown discloses the claimed device with the exception of the use of bamboo. (Brown's surrounding sections are oriented in orthogonal direction and thus at least some of them are inherently offset from the direction of the core sections). Although Brown does not specifically disclose the use of bamboo he makes clear that other woods used in the bat art may be used for the core and the surrounding sections. As disclosed by Chen it is known in the art to use bamboo. It would have been obvious to one of ordinary skill in the art to have used bamboo to make Brown's core and

surrounding sections if it was desired to obtain the particular advantages (low weight, flexibility) offered by bamboo.

Claims 9, 10, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hillerich.

Concerning claims 9 and 10, Hillerich does not specify the thickness of his strips. However, absent a showing of unexpected results the exact thickness of the strips and thus the core section would obviously have been up to the ordinarily skilled artisan depending on the strength and flexibility characteristics desired in the bat.

Regarding claims 19 and 20, the examiner takes official notice that sanding a turned piece of wood such as a bat and finishing a bat are commonly known finishing techniques. It would have been obvious to one of ordinary skill in the art to have done the same to finish Hillerich's bat to complete it.

Sadenwater, Bender et al., Buehler, Holman, Chen '659, Burrows, Johnson, Kelly et al., Young et al., Marsden, Rastetter, You, Smart, Lehman, MacKay Jr., and Shimizu have been cited for interest because they disclose similar bats.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 571-272-4410.

MSG  
3/24/05



Mark S. Graham  
Primary Examiner  
Art Unit 3711